

BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

ROBERT A. VAVRICK, M.D.

Holder of License No. 14500
For the Practice of Allopathic Medicine
In the State of Arizona

Case No. MD-06-0553A

**CONSENT AGREEMENT FOR
LETTER OF REPRIMAND**

CONSENT AGREEMENT

By mutual agreement and understanding, between the Arizona Medical Board ("Board") and Robert A. Vavrick, M.D. ("Respondent"), the parties agreed to the following disposition of this matter.

1. Respondent has read and understands this Consent Agreement and the stipulated Findings of Fact, Conclusions of Law and Order ("Consent Agreement"). Respondent acknowledges that he has the right to consult with legal counsel regarding this matter.

2. By entering into this Consent Agreement, Respondent voluntarily relinquishes any rights to a hearing or judicial review in state or federal court on the matters alleged, or to challenge this Consent Agreement in its entirety as issued by the Board, and waives any other cause of action related thereto or arising from said Consent Agreement.

3. This Consent Agreement is not effective until approved by the Board and signed by its Executive Director.

4. The Board may adopt this Consent Agreement of any part thereof. This Consent Agreement, or any part thereof, may be considered in any future disciplinary action against Respondent.

5. This Consent Agreement does not constitute a dismissal or resolution of other matters currently pending before the Board, if any, and does not constitute any waiver,

1 express or implied, of the Board's statutory authority or jurisdiction regarding any other
2 pending or future investigation, action or proceeding. The acceptance of this Consent
3 Agreement does not preclude any other agency, subdivision or officer of this State from
4 instituting other civil or criminal proceedings with respect to the conduct that is the subject
5 of this Consent Agreement.

6 6. All admissions made by Respondent are solely for final disposition of this
7 matter and any subsequent related administrative proceedings or civil litigation involving
8 the Board and Respondent. Therefore, said admissions by Respondent are not intended
9 or made for any other use, such as in the context of another state or federal government
10 regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or
11 any other state or federal court.

12 7. Upon signing this agreement, and returning this document (or a copy thereof) to
13 the Board's Executive Director, Respondent may not revoke the acceptance of the
14 Consent Agreement. Respondent may not make any modifications to the document. Any
15 modifications to this original document are ineffective and void unless mutually approved
16 by the parties.

17 8. If the Board does not adopt this Consent Agreement, Respondent will not
18 assert as a defense that the Board's consideration of this Consent Agreement constitutes
19 bias, prejudice, prejudgment or other similar defense.

20 9. This Consent Agreement, once approved and signed, is a public record that will
21 be publicly disseminated as a formal action of the Board and will be reported to the
22 National Practitioner Data Bank and to the Arizona Medical Board's website.

23 10. If any part of the Consent Agreement is later declared void or otherwise
24 unenforceable, the remainder of the Consent Agreement in its entirety shall remain in force
25 and effect.

1 11. Any violation of this Consent Agreement constitutes unprofessional conduct
2 and may result in disciplinary action. A.R.S. § § 32-1401(27)(r) ("[v]iolating a formal order,
3 probation, consent agreement or stipulation issued or entered into by the board or its
4 executive director under this chapter") and 32-1451.

5
6
7 Robert A. Vavricks
8 ROBERT A. VAVRICK, M.D.

DATED: 1/10/07

1 **FINDINGS OF FACT**

2 1. The Board is the duly constituted authority for the regulation and control of
3 the practice of allopathic medicine in the State of Arizona.

4 2. Respondent is the holder of license number 14500 for the practice of
5 allopathic medicine in the State of Arizona.

6 3. The Board initiated case number MD-06-0553A after Respondent informed
7 Board Staff he reported to his place of employment impaired. On Saturday, July 15, 2006
8 Respondent reported for his shift at the hospital and a nurse reported to Respondent's
9 supervisor ("Supervisor") that she smelled alcohol on Respondent's breath. Supervisor
10 and another emergency department physician ("Physician") confronted Respondent and
11 he told them he had been drinking the night before. Supervisor and Physician noted
12 Respondent's speech was not slurred and he did not seem impaired. They asked
13 Respondent to submit to a Blood Alcohol Content ("BAC") test immediately and allowed
14 him to continue seeing patients in the emergency department while awaiting the results.

15 4. The BAC results showed Respondent's blood alcohol level was 0.11. The
16 legal limit is 0.08. Supervisor asked Respondent to leave the emergency department
17 and advised Respondent not to return to work until he reported himself to the Board and
18 the Board notified him it was safe for him to return. On Monday, July 17, 2006 Respondent
19 reported the incident to the Board. During an interview with Board Staff Respondent
20 admitted to drinking one bottle of wine every evening from approximately October 2005 to
21 July 2006. Respondent also admitted to drinking two bottles of wine on the evening of July
22 14, 2006.

23 5. The standard of care requires a physician to present to his place of
24 employment unimpaired by drugs or alcohol.

7. Respondent's impairment exposed his patients and the public to potential harm.

CONCLUSIONS OF LAW

1. The Board possesses jurisdiction over the subject matter hereof and over Respondent.

2. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. § 32-1401(27)(f) (“[h]abitual intemperance in the use of alcohol or habitual substance abuse”) and A.R.S. § 32-1401 (27)(q) (“[a]ny conduct or practice that is or might be harmful or dangerous to the health of the patient or the public.”).

ORDER

IT IS HEREBY ORDERED THAT:

1. Respondent is issued a Letter of Reprimand for habitual intemperance and reporting to work under the influence of alcohol.

2. Respondent is placed on probation for **five years** with the following terms and conditions:

a. Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all conditions of probation. The declarations shall be submitted on or before the 15th of March, June, September and December of each year, beginning on or before March 7, 2007.

b.1. **Participation.** Respondent shall promptly enroll in and participate in the Board's program for the treatment and rehabilitation of physicians who are impaired by alcohol or drug abuse ("MAP"). Respondent's participation in MAP may be unilaterally terminated with or without cause at the Board's discretion at any time after the issuance of this Order.

1 **2. Relapse Prevention Group.** Respondent shall attend MAP's relapse
2 prevention group therapy sessions one time per week for the duration of this Order, unless
3 excused by the MAP relapse prevention group facilitator for good cause such as illness or
4 vacation. Respondent shall instruct the MAP relapse prevention group facilitators to
5 release to Board Staff, upon request, all records relating to Respondent's treatment, and to
6 submit monthly reports to Board Staff regarding attendance and progress. The reports
7 shall be submitted on or before the 10th day of each month.

8 **3. 12 Step or Self-Help Group Meetings.** Respondent shall attend ninety 12-
9 step meetings or other self-help group meetings appropriate for substance abuse and
10 approved by Board Staff, for a period of ninety days beginning not later than either (a) the
11 first day following Respondent's discharge from chemical dependency treatment or (b) the
12 date of this Order.

13 **4.** Following completion of the ninety meetings in ninety days, Respondent shall
14 participate in a 12-step recovery program or other self-help program appropriate for
15 substance abuse as recommended by the MAP Director and approved by Board Staff.
16 Respondent shall attend a minimum of three 12-step or other self-help program meetings
17 per week for a total of twelve per month. Two of the twelve meetings must be Caduceus
18 meetings. Respondent must maintain a log of all self-help meetings. Board Staff will
19 provide the log to Respondent.

20 **5. Board-Staff Approved Primary Care Physician.** Respondent shall
21 promptly obtain a primary care physician and shall submit the name of the physician to
22 Board Staff in writing for approval. The Board-approved primary care physician ("PCP")
23 shall be in charge of providing and coordinating Respondent's medical care and treatment.
24 Except in an *Emergency*, Respondent shall obtain medical care and treatment only from
25 the PCP and from health care providers to whom the PCP refers Respondent.

Respondent shall request that the PCP document all referrals in the medical record. Respondent shall promptly inform the PCP of Respondent's rehabilitation efforts and provide a copy of this Order the PCP. Respondent shall also inform all other health care providers who provide medical care or treatment that Respondent is participating in MAP.

a. "Emergency" means a serious accident or sudden illness that, if not treated immediately, may result in a long-term medical problem or loss of life.

6. **Medication.** Except in an *Emergency*, Respondent shall take no *Medication* unless the PCP or other health care provider to whom the PCP refers Respondent prescribes the Medication. Respondent shall not self-prescribe any *Medication*.

a. "Medication" means a prescription-only drug, controlled substance, and over-the counter preparation, other than plain aspirin, plain ibuprofen, and plain acetaminophen.

7. If a controlled substance is prescribed, dispensed, or is administered to Respondent by any person other than PCP, Respondent shall notify the PCP in writing within 48 hours and notify the MAP Director immediately. The notification shall contain all information required for the medication log entry specified in paragraph 8. Respondent shall request that the notification be made a part of the medical record. This paragraph does not authorize Respondent to take any *Medication* other than in accordance with paragraph 6.

8. **Medication Log.** Respondent shall maintain a current legible log of all *Medication* taken by or administered to Respondent, and shall make the log available to the Board Staff upon request. For *Medication* (other than controlled substances) taken on an on-going basis, Respondent may comply with this paragraph by logging the first and last administration of the *Medication* and all changes in dosage or frequency. The log, at a minimum, shall include the following:

- a. Name and dosage of *Medication* taken or administered;
- b. Date taken or administered;
- c. Name of prescribing or administering physician;
- d. Reason *Medication* was prescribed or administered.

This paragraph does not authorize Respondent to take any *Medication* other than in accordance with paragraph 6.

9. No Alcohol or Poppy Seeds. Respondent shall not consume alcohol or any food or other substance containing poppy seeds or alcohol.

10. Biological Fluid Collection. During all times that Respondent is physically present in the State of Arizona and such other times as Board Staff may direct, Respondent shall promptly comply with requests from Board Staff or MAP Director to submit to witnessed biological fluid collection. If Respondent is directed to contact an automated telephone message system to determine when to provide a specimen, Respondent shall do so within the hours specified by Board Staff. For the purposes of this paragraph, in the case of an in-person request, "promptly comply" means "immediately." In the case of a telephonic request, "promptly comply" means that, except for good cause shown, Respondent shall appear and submit to specimen collection not later than two hours after telephonic notice to appear is given. The Board in its sole discretion shall determine good cause.

11. Respondent shall provide Board Staff in writing with one telephone number that shall be used to contact Respondent on a 24 hour per day/seven day per week basis to submit to biological fluid collection. For the purposes of this section, telephonic notice shall be deemed given at the time a message to appear is left at the contact telephone number provided by Respondent. Respondent authorizes any person or organization

1 conducting tests on the collected samples to provide testing results to the Board and the
2 MAP Director.

3 12. Respondent shall cooperate with collection site personnel regarding
4 biological fluid collection. Repeated complaints from collection site personnel regarding
5 Respondent's lack of cooperation regarding collection may be grounds for termination from
6 MAP.

7 13. **Out of State Travel and/or Unavailability at Home or Office Telephone**
8 **Number.** Respondent shall provide Board Staff at least three business days advance
9 written notice of any plans to be away from office or home when such absence would
10 prohibit Respondent from responding to an order to provide a biological fluid specimen or
11 from responding to communications from the Board. The notice shall state the reason for
12 the intended absence from home or office, and shall provide a telephone number that may
13 be used to contact Respondent.

14 14. **Payment for Services.** Respondent shall pay for all costs, including
15 personnel and contractor costs, associated with participating in MAP at time service
16 is rendered, or within 30 days of each invoice sent to Respondent.

17 15. **Examination.** Respondent shall submit to mental, physical, and medical
18 competency examinations at such times and under such conditions as directed by the
19 Board to assist the Board in monitoring Respondent's ability to safely perform as a
20 physician and Respondent's compliance with the terms of this Order.

21 16. **Treatment.** Respondent shall submit to all medical, substance abuse, and
22 mental health care and treatment ordered by the Board.

23 17. **Obey All Laws.** Respondent shall obey all federal, state and local laws, and
24 all rules governing the practice of medicine in the State of Arizona.

1 **18. Interviews.** Respondent shall appear in person before the Board and its
2 Staff and MAP committees for interviews upon request, upon reasonable notice.

3 **19. Address and Phone Changes, Notice.** Respondent shall immediately
4 notify the Board in writing of any change in office or home addresses and telephone
5 numbers.

6 **20. Relapse, Violation.** In the event of chemical dependency relapse by
7 Respondent or Respondent's use of drugs or alcohol in violation of the Order, Respondent
8 shall promptly enter into an Interim Consent Agreement for Practice Restriction that
9 requires, among other things, that Respondent not practice medicine until such time as
10 Respondent successfully completes long-term inpatient or residential treatment program
11 for chemical dependency designated by Board Staff and obtains affirmative approval from
12 the Board or the Executive Director to return to the practice of medicine. Prior to
13 approving Respondent's request to return to the practice of medicine, Respondent may be
14 required to submit to witnessed biological fluid collection, undergo any combination of
15 physical examination, psychiatric or psychological evaluation and/or successfully pass the
16 special purpose licensing examination or the Board may conduct interviews for the
17 purpose of assisting it in determining the ability of Respondent to safely return to the
18 practice of medicine. **In no respect shall the terms of this paragraph restrict the**
19 **Board's authority to initiate and take disciplinary action for violation of this Order.**

20 **21. Notice Requirements.**

21 **(A)** Respondent shall immediately provide a copy of this Order to all
22 employers and all hospitals and free standing surgery centers where Respondent currently
23 has privileges. Within 30 days of the date of this Order, Respondent shall provide the
24 Board with a signed statement of compliance with this notification requirement. Upon any
25 change in employer or upon the granting of privileges at additional hospitals and free

1 standing surgery centers, Respondent shall provide the employer, hospital or free standing
2 surgery center with a copy of this Order. Within 30 days of a change in employer or upon
3 the granting of privileges at additional hospitals and free standing surgery centers,
4 Respondent shall provide the Board with a signed statement of compliance with this
5 notification requirement.

6 (B) Respondent is further required to notify, in writing, all employers,
7 hospitals and free standing surgery centers where Respondent currently has or in the
8 future gains employment or privileges, of a chemical dependency relapse, use of drugs or
9 alcohol in violation of this Order and/or entry into a treatment program. Within seven days
10 of any of these events Respondent shall provide the Board written confirmation of
11 compliance with this notification requirement.

12 22. **Public Record.** This Order is a public record.

13 23. **Out-of-State.** In the event Respondent resides or practices as a physician in
14 a state other than Arizona, Respondent shall participate in the rehabilitation program
15 sponsored by that state's medical licensing authority or medical society. Respondent shall
16 cause the monitoring state's program to provide written reports to the Board regarding
17 Respondent's attendance, participation, and monitoring. The reports shall be due quarterly
18 on or before the 15th day of March, June, September, and December of each year, until
19 the Board terminates this requirement in writing. The monitoring state's program and
20 Respondent shall immediately notify the Board if Respondent: a) is non-compliant with any
21 aspect of the monitoring requirements; b) relapses; c) tests positive for controlled
22 substances; d) has low specific gravity urine drug test(s), missed and/or late urine drug
23 tests, or otherwise rejected urine drug tests; and e) is required to undergo any additional
24 treatment.

1 24. This Order supersedes all previous consent agreements and stipulations
2 between the Board and/or the Executive Director and Respondent.

3 25. The Board retains jurisdiction and may initiate new action based upon any
4 violation of this Order.

5 26. Respondent shall immediately obtain a treating therapist approved by Board
6 Staff and shall remain in treatment with the therapist until further order of the Executive
7 Director. Respondent shall instruct the therapist to release to Board Staff, upon request,
8 all records relating to Respondent's treatment, and to submit quarterly written reports to
9 Board Staff regarding diagnosis, prognosis, medications, and recommendations for
10 continuing care and treatment of Respondent. The reports shall be submitted on or before
11 the 15th day of March, June, September and December of each year, beginning on or
12 before March 7, 2007.

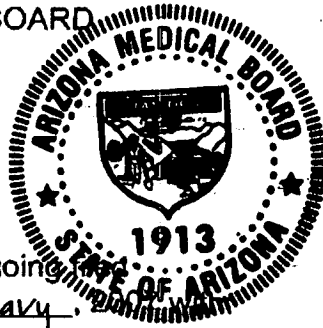
13 3. Tolling

14 In the event Respondent should leave Arizona to reside or practice outside the
15 State or for any reason should Respondent stop practicing medicine in Arizona,
16 Respondent shall notify the Executive Director in writing within ten days of departure and
17 return or the dates of non-practice within Arizona. Non-practice is defined as any period of
18 time exceeding thirty days during which Respondent is not engaging in the practice of
19 medicine. Periods of temporary or permanent residence or practice outside Arizona or of
20 non-practice within Arizona, will not apply to the reduction of the probationary period.

21 4. This Order is the final disposition of case number MD-06-0553A.

22 DATED AND EFFECTIVE this 9th day of February, 2007.
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1 ARIZONA MEDICAL BOARD
2 (SEAL)



By


TIMOTHY C. MILLER, J.D.
Executive Director

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4
5 ORIGINAL of the foregoing
this 9th day of February, 2007

6 Arizona Medical Board
7 9545 E. Doubletree Ranch Road
8 Scottsdale, AZ 85258

9 EXECUTED COPY of the foregoing mailed
this 9th day of February, 2007 to:

10 Robert A. Vavrick, M.D.
11 Address of Record

12 
13 Investigational Review